

**DOCKET NO.:** MSFT-0688 (180597.1)  
**Application No.:** 09/924,731  
**Office Action Dated:** June 23, 2009

**PATENT**

### **REMARKS**

Claims 19, 21-32, 34, 35, and 37 are pending. Claims 19, 32, and 35 are currently amended. No new matter is introduced by virtue of the claim amendments. Reconsideration and allowance of the present application in view of the claim amendments and remarks to follow is respectfully requested.

### **Telephone Conversation With Examiner**

Examiner Bilgrami is thanked for the telephone conversation conducted on September 17, 2009. The objection to the specification was discussed. It appears that the object to the specification is overcome. Proposed amendments were discussed. Asserted art was discussed. It appears that the rejections based on the asserted art is overcome.

### **Specification Objections**

The disclosure is objected to on informal ground for allegedly lacking antecedent basis of the claimed terminology of “Computer storage readable medium” as recited in claim 32. This objection is respectfully traversed.

At the outset, it is respectfully noted that claim 32 recites a *computer readable storage medium comprising computer executable instructions that are executable by a computer ...* and not a *computer storage readable medium*, as stated in the Office Action. In any event, the specification is replete with disclosure that supports and provides sufficient antecedent basis for claim 32. For example, support for the term “computer readable storage medium” can be found on page 4, lines 16-23, and page 5, lines 16-30, of the specification as filed. Withdrawal of the objection is requested.

### **Claim Rejections – 35 U.S.C. § 103**

Claims 19, 21, 22, 23, 24, 25-32, 34, 35, and 37 are rejected under 35 U.S.C. §103(a) as being unpatentable over Bruck et al. (U.S. 6,801,949) in view of Hart (U.S. 6,154,765) and

Brendel et al. (U.S. 5,774,660). It is respectfully asserted that the claims are patentable and allowable over the combination of Bruck, Hart, and Brendel, as follows.

For example, with regard to independent claims 19, 32, and 35, while the Office Action does not specifically rely on Brendel to reject claims 19, 32, and 35, it is respectfully submitted that the combination of Bruck and Hart does not disclose or suggest the claimed features of, e.g., *detecting, by the NAM, a failure of a first VIA connection ..., sending, by the NAM, a Server Resolution Protocol request ..., receiving, by the NAM, a Server Resolution Protocol response ..., caching, by the NAM, the response ..., and establishing, by the NAM, a second VIA connection .....*

*wherein the server cluster does not provide fail-over support to re-direct a request from the client application from the first server to the second server when the server cluster automatically switches operation from the first server to the second server;*

*wherein the detecting, the sending, the receiving, caching, and the establishing are performed by the NAM to provide seamless fail-over connectivity of the client application from the first server to the second sever in a manner transparent to the client application, as recited in claims 19 and 32 and as similarly claimed in claim 35.*

While Applicants respectfully disagree with the current rejections for previously asserted reasons, the claims have been amended to further clarify and distinguish over the primary reference Bruck, for example. In the Response to Arguments on page 9 of the Office Action, the Office Action contends that reliance on Bruck is not wholly misplaced, as Applicants contend, because Bruck and the claimed invention are both directed to “seamless failover between a client and a server cluster.” Respectfully, this misses the point.

While the claimed subject matter and Bruck may, in a high-level general context, be directed to methods for providing seamless fail-over connectivity between a client and a server cluster, there are stark differences between the method disclosed by Bruck and the methods as

currently claimed. Bruck discloses seamless client connectivity implemented “server-side” by a server cluster through dynamic traffic network reassignment functions in which client connectivity is maintained in case of server failure without breaking network communications between clients and servers.

In contrast, the claimed subject matter is directed to methods for providing seamless fail-over connectivity between a client and a server cluster in which a NAM (network access module), which a client uses to communicate with the server cluster, performs various acts (as recited) to *provide seamless fail-over connectivity in a manner transparent to the client application*, as recited in claims 19, 32 and 35. In the context of the claimed subject matter viewed as a whole, reliance on Bruck is wholly misplaced because Bruck’s server-side method is clearly different and not remotely suggestive of the claimed methods implemented via a NAM to provide support for seamless connectivity between a client and server cluster.

To further clarify this point, claims 19, 32 and 35 are amended to recite *wherein the server cluster does not provide fail-over support to re-direct a request from the client application from the first server to the second server when the server cluster automatically switches operation from the first server to the second server.* Again, this is in stark contrast to the server cluster in Bruck which implements a server side protocol to provide seamless connectivity between a client and the server cluster in the case of a failure of a server and a subsequent fail-over to a new working server.

Moreover, claims 19 and 32 have been amended to further clarify and distinguish over Bruck by reciting detecting, by the NAM, a failure of a first VIA connection ..., sending, by the NAM, a Server Resolution Protocol request ..., receiving, by the NAM, a Server Resolution Protocol response ..., caching, by the NAM, the response ..., and establishing, by the NAM, a second VIA connection, while these features are already clearly recited in claim 35. In the context of the claimed subject matter viewed as a whole, reliance on Bruck is wholly

misplaced in this regard, because Bruck clearly does not disclose or suggest a NAM performing the recited acts to provide seamless fail-over support, within the context of the claimed subject matter.

In fact, reliance on Bruck in this regard is squarely undermined by the Office Action's own admission (on page 4) that Bruck does not disclose that the detecting, the sending, the receiving, caching, and the establishing are performed by a NAM to provide seamless fail-over connectivity in a manner transparent to the client application.

Furthermore, while the Office Action contends that Hart discloses a Virtual Interface Architecture (VIA) protocol (Col. 8, lines 31-33) and wherein the detecting, the sending, the receiving, caching and the establishing are performed by the NAM to provide seamless fan-over connectivity in a manner transparent to the client application (Col. 2, lines 21-25), it is respectfully asserted that the cited sections of Hart do not support these findings.

Indeed, as previously explained, although Hart generally discloses (in Col. 8, lines 31-33) VIA protocol communication, Hart suggests the use of VIA for communication between processing nodes in the server system, and not establishing VIA connections by a client side NAM between a client application and a server, as claimed. Moreover, although Hart generally discloses in the Background section (Col. 2, lines 21-25) that “[i]n a clustering system, the network client must have reconnection smarts so that the user cannot tell that behind the scenes a current connection to a server failed, and a new connection to the same IP address on another server has occurred,” this general statement clearly does not disclose or remotely suggest, or otherwise cure the deficiencies of Bruck as noted above, with regard to *detecting, sending, receiving and establishing* being performed by a client side NAM, much less being performed by a client-side NAM to provide *seamless fail-over connectivity client transparent to the client application*, as claimed in claims 19, 32 and 35.

These points of contention regarding Hart were raised in Applicants' previous response, but the Office Action did not address or otherwise attempt to refute these points in the Response to Arguments section. In this regard, Applicants respectfully maintain their contention that there is no motivation to combine the teachings of Bruck and Hart with respect to claims 19, 32 and 35 as previously recited and as currently claimed.

At the very least, irrespective of what Hart is characterized as teaching, in view of the Office Action's acknowledgment that Bruck does not disclose that the detecting, the sending, the receiving, caching, and the establishing are performed by the NAM to provide seamless fail-over connectivity in a manner transparent to the client application, and given that Bruck clearly teaches a server-side fail over mechanism protocol that does not involve a NAM, there would appear to be no rational basis in law or fact to modify Bruck's teachings regarding "server side" fail over mechanisms with the general teachings of Hart to realize the claimed subject matter regarding a NAM providing seamless fail over connectivity support. This modification of Bruck would fundamentally change the entire principal of operation and architecture of Bruck's fail-over system which is premised on server-side protocol, which actually

Accordingly, in view of the above, it is respectfully submitted that claims 19, 32 and 35 are patentable over the combination of Bruck and Hart. Moreover, all pending claims depending from claims 19, 32 and 35 are patentable over Bruck, Hart and Brendel at least for the same reasons given for their respective base claims 19, 32 and 35. It is to be noted that Applicants generally deny, and do not concede to, any statement, position or averment in the Office Action in support of the claim rejections under 35 U.S.C. §103, which is not specifically addressed by the foregoing arguments and response. Withdrawal of the rejections under 35 U.S.C. § 103 is respectfully requested.

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### **CONCLUSION**

The Applicants believe that the present remarks are responsive to each of the points raised by the Examiner in the official action, and respectfully submit that all claims are in condition for allowance. Favorable consideration and passage to issue of the application at the Examiner's earliest convenience is earnestly solicited.

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